LIBEL AND SLANDER—ABSOLUTE PRIVILEGE—JUDICIAL PROCEEDINGS.—Defendants caused to be signed and presented to a police justice a petition asking that plaintiff and his wife be required to vacate the premises where they resided on the ground that they were "disturbers of the peace, quarrelsome and a general nuisance to the peaceful citizens about them." It did not appear that the police justice directed the preparation of the petition. *Held,* that the statements made in the petition were absolutely privileged so far as the proceeding before the justice was concerned. *Flynn* v. *Boglarsky* (1911), — Mich. —, 129 N. W. 674.

From motives of public policy the law recognizes certain communications or publications as privileged. *Atlanta News Pub. Co.* v. *Medlock,* 123 Ga. 714, 51 S. E. 756. As a general rule, libelous or slanderous matter published in the due course of a legal proceeding is absolutely privileged and will not support an action for defamation, although made maliciously. *Burdette* v. *Argile,* 94 Ill. App. 171. This privilege, however, attaches only to such matter as is pertinent and material to the subject of the inquiry; *McLaughlin* v. *Cowley,* 127 Mass. 316; and within the jurisdiction of the court, *Rainbow* v. *Benson,* 71 Iowa 301, 32 N. W. 352. It was urged in the principal case that the petition was not such a paper or pleading as had any place in the files of the court to whose presiding officer it was addressed, and not such as he could act upon, and therefore did not come within the rule stated above; but the court held that to be too narrow a view, refusing so to abridge the right of a citizen to make a complaint before a magistrate. It has been held that an unverified communication written to a justice, merely purporting to state a rumor, and suggesting an investigation, was not privileged as a statement made in the course of a judicial proceeding, *Miller* v. *Nuckolls,* 77 Ark. 64, 91 S. W. 759, 4 L. R. A. (N. S.) 149, 113 Am. St. Rep. 122; but the decision of the Michigan court in the principal case would seem to be the correct one where the misconduct is directly charged and the magistrate has jurisdiction over the matter concerning which the complaint is made.

PARENT AND CHILD—MAY PARENT AUTHORIZE AGENT TO "KIDNAP" CHILD?—Defendant Brandenberg was indicted for kidnapping, under Rev. St. 1909, § 4489, which makes it a crime to entice a child under 12 from the person having lawful charge thereof. In defense he set up that he was the child's stepfather, and took the child by authority of her mother. The mother had left her former husband, taking the child with her, and had obtained a divorce in the West Indies, and married defendant. She had been forced by poverty to return the child to the father's custody, but had exacted his promise to give her back when the mother should be able to provide proper support. *Held,* even if the mother had the right to entice away the child (which the court did not decide) she could not delegate such right, and authority to act as her agent was no defense. *State* v. *Brandenberg* (1911), — Mo. —, 134 S. W. 529.

A parent cannot be guilty of kidnapping a child, of which, as between the parents, he has the right of custody. *Biggs* v. *State,* 13 Wyo. 94, 77 Pac. 901; *Burns* v. *Comm.,* 129 Pa. St. 138, 18 Atl. 756; *Hunt* v. *Hunt,* 94 Ga. 257,

21 S. E. 515; *State* v. *Angel,* 42 Kan. 216, 21 Pac. 1075; *In re Marceau,* 15 N. Y. Cr. R. 92, 32 Misc. 217, 65 N. Y. Supp. 717. But where another has been given the right to custody by court decree, the parental relation is no defense. *State* v. *Farrar,* 41 N. H. 53; *In re Peck,* 66 Kan. 693, 72 Pac. 265. There seems to be but one case in the books parallel to the principal case—*Comm.* v. *Nickerson,* 5 Allen 518. The decision is the same, but the court assumed in that case that the mother had *no* right to take the child, instead of holding that point immaterial, as here. In the principal case the court based its holding on the argument that one object of the statute is to protect parents from the mental anguish which follows the enticing away of a child by a stranger, an element not likely to be present when the other parent is the "kidnapper." Although the kidnapping of children is certainly not to be encouraged, nevertheless, the parent's admitted right to take the child in some cases would seem to be an empty one if there is no correlative right to procure assistance.

QUO WARRANTO—WHEN LIES—JURISDICTION OF MUNICIPALITY.—In a proceeding in the nature of quo warranto to exclude the village of College View and its trustees from taxing or otherwise exercising authority over the relator's real estate. *Held,* a non-resident owner of agricultural lands illegally included within the boundaries of a village may maintain proceedings by quo warranto for the purpose of preventing a municipality from exercising jurisdiction over his real estate. *State ex rel. Bute* v. *Village of College View* (1911), — Neb. —, 129 N. W. 296.

The authorities are in direct conflict as to whether or not quo warranto will lie to test the legality of the exercise of corporate powers outside of municipal boundaries. Representative decisions holding with the principal case are: *People ex rel. Attorney General* v. *Oakland,* 92 Cal. 611, 28 Pac. 807; *State* v. *Crow Wing County,* 66 Minn. 519, 68 N. W. 767, 69 N. W. 925, 73 N. W. 631; *People* v. *City of Peoria,* 166 Ill. 517; *Frey* v. *Michie,* 68 Mich. 323; *State* v. *Fleming,* 147 Mo. 1; *East Dallas* v. *State,* 73 Tex. 370; *State* v. *McLean County,* 11 N. D. 356, 92 N. W. 385. This undoubtedly expresses the weight of authority and is in accord with the better reasoning. ROBERTS, EXTRAORDINARY LEGAL REMEDIES, p. 326; 8 AM. & ENG. ANN. CAS. 323. The opposite view and the reason therefor is well expressed by Mr. Justice WALKER in *People* v. *Whitcomb,* 55 Ill. 172, who says, "The writ of quo warranto is generally employed to try the right a person claims to an office, not to test the legality of his acts. If an officer threatens to exercise the powers of his office in a territory or jurisdiction within which he is not authorized to act, people feeling themselves aggrieved may usually restrain the act by injunction. This case, however, seems to be without appreciable support in Illinois as there is a long line of cases in that state opposed to the doctrine for which it stands. *People ex rel. Warren* v. *York,* — Ill. —, 93 N. E. 400, and it has been cited with approval, upon the point involved, in but one instance. *East St. Louis* v. *New Brighton,* 34 Ill. App. 494. However, the doctrine, that injunction and not quo warranto is the proper remedy, receives the undivided support of the Indiana Courts. *Peru* v. *Bearss,*